
Friday
March 27, 1987

Part III

**Department of
Transportation**

**Research and Special Programs
Administration**

**49 CFR Parts 171 and 175
Detailed Hazardous Materials Incident
Reports; Notice of Proposed Rulemaking**

DEPARTMENT OF TRANSPORTATION**Research and Special Programs Administration****49 CFR Parts 171 and 175****[Docket No. HM-36B; Notice 87-3]****Detailed Hazardous Materials Incident Reports****AGENCY:** Office of Hazardous Materials Transportation, Research and Special Programs Administration, DOT.**ACTION:** Notice of Proposed Rulemaking.

SUMMARY: This notice proposes several changes to the Research and Special Programs Administration's (RSPA's) system of collecting information on incidents involving the transportation of hazardous materials.

The proposed amendment would revise the hazardous materials incident report form—DOT F 5800.1—to provide more meaningful and comprehensive incident data, especially in terms of incident causation and consequent factors; and carriers would be required to maintain a copy of the incident report forms submitted to RSPA for a period of two years. In addition, the proposed amendment would expand the present requirement that RSPA be notified, at the earliest practicable moment, of the occurrence of certain events (e.g. incidents involving fatalities, suspected radioactive contamination) relating to the transportation of hazardous materials to include events resulting in evacuations, the shutdown or closure of major transportation arteries, and instances where an aircraft is forced to deviate from its planned course, or is required to make an unscheduled landing. The proposed amendment would also require that all carriers involved in a hazardous materials incident provide assistance to an authorized representative of the Department of Transportation (DOT) in any follow-up investigations or special studies which DOT might undertake in connection with the incident.

The intended effect of these actions is to enhance the Department of Transportation's capability to evaluate the effectiveness of existing regulations; and to determine the need for regulatory changes to cover new or emerging transportation safety problems.

DATE: Comments must be received on or before July 29, 1987.

ADDRESS: Address comments to: Dockets Branch, Office of Hazardous Materials Transportation, DHM-30, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should be submitted, if possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed, stamped post card. The Dockets Branch is located in Room 8426, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Public dockets may be reviewed between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

J. S. Nalevanko, Policy Development and Information Systems Division, DHM-61, Office of Hazardous Materials Transportation, U.S. Department of Transportation, Washington, DC 20590, Telephone (202) 366-4484, or Irving R. Abis, Standards Division, DHM-12, Office of Hazardous Materials Transportation, U.S. Department of Transportation, Washington, DC 20590, Telephone (202) 366-4488.

SUPPLEMENTARY INFORMATION:**Background**

On March 16, 1984, (49 FR 10042, March 16, 1984), RSPA published an Advance Notice of Proposed Rulemaking (ANPRM), Docket No. HM-36B, inviting comments on two major issues concerning the Department's collection of information on hazardous materials transportation incidents.

The first issue was whether the present criteria for submitting detailed, written reports on hazardous materials incidents should be changed and, if so, what the new criteria should be. Currently, written reports must be submitted if the incident requires a telephonic notice under § 171.15; or if, under § 171.16, there is an "unintentional release" of a hazardous material (not involving consumer commodities, batteries, paints, and related materials in packagings of five gallons or less).

The second issue was whether the current incident report form—F5800.1—should be changed and, if so, what the nature of this change should be.

In response to Docket No. HM-36B, RSPA received written comments from 27 different public and private organizations. One additional comment was entered into the Docket as a result of a public meeting on the subject, held on May 1, 1984, in Washington, DC. Each comment has been carefully considered in preparing this Notice of Proposed Rulemaking.

Resolution of Issues Raised in the ANPRM

Changing the current criteria for the submission of written hazardous materials incident reports.

The ANPRM requested comments on whether it would be desirable to change the current criteria for the submission of written reports, especially for hazardous materials incidents involving non-bulk packagings (generally, with a capacity of 110 gallons or less). The ANPRM suggested the possibility that such packagings might be exempted from the current reporting requirements, except for incidents resulting in a fatality or an injury, or meeting a certain number of other criteria.

Based on an analysis of the comments received, RSPA has decided not to exempt non-bulk packaging from the requirement of written incident reports. Among the reasons for this decision are the following.

First, the current reporting criteria are an important and necessary means to enable field investigators to monitor hazardous materials shippers, carriers, and packaging manufacturers of hazardous materials packages for compliance with the hazardous materials regulations; and to determine if a specific carrier, shipper or manufacturer is having problems with a particular package. This investigatory function pertains to both large and small packages and cannot be limited to large packages alone.

Second, RSPA has a rulemaking project under Docket HM-181, entitled "Performance-Oriented Packaging Standards," (47 FR 16268, April 15, 1982) which, among other things, proposes to make the DOT hazardous materials regulations performance standards as they pertain to non-bulk packagings. This will provide greater flexibility to both manufacturers and shippers in the design and utilization of packagings for hazardous materials. The proposed standards would apply to packages with a capacity of 450 liters or less for liquids or 400 kilograms or less for solids. Exempting incidents involving small packages from a reporting requirement would disrupt the continuity of RSPA's existing data base, and limit its ability to make comparative safety analyses and evaluate the record of the proposed performance packaging standards.

Finally, the current reporting criteria do not, either in the aggregate or in terms of individual carriers, constitute an excessive economic or administrative burden to the transportation industry. The reduction in the costs to carriers that would result from eliminating the current requirement to report all incidents involving non-bulk hazardous materials packages would not exceed \$336,000 annually. This is not an excessive cost when shared by the thousands of companies engaged in the